

ASSEMBLY BILL

No. 728

Introduced by Assembly Member Nielsen

February 26, 2009

An act to amend Section 14166.245 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 728, as introduced, Nielsen. Medi-Cal: hospitals: reimbursements.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons.

Existing law, until January 1, 2013, reduces interim payments by 10% for inpatient hospital services provided on and after July 1, 2008, at all hospitals that receive Medi-Cal reimbursement from the department and that are not under selective contracts with the department.

Under existing law, beginning on October 1, 2008, amounts paid to hospitals that are calculated pursuant to the above provisions shall not exceed the applicable regional average per diem contract rate for tertiary hospitals and for certain other hospitals, reduced by 5%, multiplied by the number of Medi-Cal covered inpatient days for which the interim payment is being made. Existing law provides that regional average per diem contract rate limitation shall not apply to open health facility planning areas when any of specified conditions is met, including when the open health facility planning area has 3 or more hospitals with licensed general acute care beds.

This bill would require that these 3 or more hospitals be full service hospitals. The bill would define full service hospital as being a general

acute care hospital which, at a minimum, provides basic emergency medical services, medical or surgical services, intensive care services, and perinatal services.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14166.245 of the Welfare and Institutions
2 Code, as amended by Section 57 of Chapter 758 of the Statutes of
3 2008, is amended to read:

4 14166.245. (a) The Legislature finds and declares that the state
5 faces a fiscal crisis that requires unprecedented measures to be
6 taken to reduce General Fund expenditures to avoid reducing vital
7 government services necessary for the protection of the health,
8 safety, and welfare of the citizens of the State of California.

9 (b) (1) Notwithstanding any other provision of law, except as
10 provided in Article 2.93 (commencing with Section 14091.3), for
11 hospitals that receive Medi-Cal reimbursement from the State
12 Department of Health Care Services and that are not under contract
13 with the State Department of Health Care Services pursuant to
14 Article 2.6 (commencing with Section 14081) of Chapter 7 of Part
15 3 of Division 9, the amounts paid as interim payments for inpatient
16 hospital services provided on and after July 1, 2008, shall be
17 reduced by 10 percent.

18 (2) (A) Beginning on October 1, 2008, amounts paid that are
19 calculated pursuant to paragraph (1) shall not exceed the applicable
20 regional average per diem contract rate for tertiary hospitals and
21 for all other hospitals established as specified in subparagraph (C),
22 reduced by 5 percent, multiplied by the number of Medi-Cal
23 covered inpatient days for which the interim payment is being
24 made.

25 (B) This paragraph shall not apply to small and rural hospitals
26 specified in Section 124840 of the Health and Safety Code, or to
27 hospitals in open health facility planning areas that were open
28 health facility planning areas on October 1, 2008, unless either of
29 the following apply:

1 (i) The open health facility planning area at any time on or after
2 July 1, 2005, was a closed health facility planning area as
3 determined by the California Medical Assistance Commission.

4 (ii) The open health facility planning area has three or more *full*
5 *service* hospitals with licensed general acute care beds.

6 (C) (i) For purposes of this subdivision and subdivision (c), the
7 average regional per diem contract rates shall be derived from
8 unweighted average contract per diem rates that are publicly
9 available on June 1 of each year, trended forward based on the
10 trends in the California Medical Assistance Commission's Annual
11 Report to the Legislature. For tertiary hospitals, and for all other
12 hospitals, the regional average per diem contract rates shall be
13 based on the geographic regions in the California Medical
14 Assistance Commission's Annual Report to the Legislature. The
15 applicable average regional per diem contract rates for tertiary
16 hospitals and for all other hospitals shall be published by the
17 department on or before October 1, 2008, and these rates shall be
18 updated annually for each state fiscal year and shall become
19 effective each July 1, thereafter. Supplemental payments shall not
20 be included in this calculation.

21 (ii) For purposes of clause (i), both the federal and nonfederal
22 share of the designated public hospital cost-based rates shall be
23 included in the determination of the average contract rates by
24 multiplying the hospital's interim rate, established pursuant to
25 Section 14166.4 and that is in effect on June 1 of each year, by
26 two.

27 (iii) For the purposes of this section, a tertiary hospital is a
28 children's hospital specified in Section 10727, or a hospital that
29 has been designated as a Level I or Level II trauma center by the
30 Emergency Medical Services Authority established pursuant to
31 Section 1797.1 of the Health and Safety Code.

32 (D) For purposes of this section, the terms "open health facility
33 planning area" and "closed health facility planning area" shall
34 have the same meaning and be applied in the same manner as used
35 by the California Medical Assistance Commission in the
36 implementation of the hospital contracting program authorized in
37 Article 2.6 (commencing with Section 14081).

38 (E) *For purposes of this section, a "full service" hospital is a*
39 *general acute care hospital which, at a minimum, provides all of*
40 *the following:*

- 1 (i) *Basic emergency medical services.*
- 2 (ii) *Medical or surgical services, or both.*
- 3 (iii) *Intensive care services.*
- 4 (iv) *Perinatal services.*

5 (c) (1) Notwithstanding any other provision of law, for hospitals
6 that receive Medi-Cal reimbursement from the State Department
7 of Health Care Services and that are not under contract with the
8 State Department of Health Care Services, pursuant to Article 2.6
9 (commencing with Section 14081), the reimbursement amount
10 paid by the department for inpatient services provided to Medi-Cal
11 recipients for dates of service on and after July 1, 2008, shall not
12 exceed the amount determined pursuant to paragraph (3).

13 (2) For purposes of this subdivision, the reimbursement for
14 inpatient services includes the amounts paid for all categories of
15 inpatient services allowable by Medi-Cal. The reimbursement
16 includes the amounts paid for routine services, together with all
17 related ancillary services.

18 (3) When calculating a hospital's cost report settlement for a
19 hospital's fiscal period that includes any dates of service on and
20 after July 1, 2008, the settlement for dates of service on and after
21 July 1, 2008, shall be limited to the lesser of the following:

22 (A) Ninety percent of the hospital's audited allowable cost per
23 day for those services multiplied by the number of Medi-Cal
24 covered inpatient days in the hospital's fiscal year on or after July
25 1, 2008.

26 (B) Beginning for dates of service on and after October 1, 2008,
27 the applicable average regional per diem contract rate established
28 as specified in subparagraph (A) of paragraph (2) of subdivision
29 (b), reduced by 5 percent, multiplied by the number of Medi-Cal
30 covered inpatient days in the hospital's fiscal year, or portion
31 thereof. This subparagraph shall not apply to small and rural
32 hospitals specified in Section 124840 of the Health and Safety
33 Code, or to hospitals in open health facility planning areas that
34 were open health facility planning areas on July 1, 2008, unless
35 either of the following apply:

36 (i) The open health facility planning area at any time on or after
37 July 1, 2005, was a closed health facility planning area as
38 determined by the California Medical Assistance Commission.

39 (ii) The open health facility planning area has more than three
40 *full service* hospitals with licensed general acute care beds.

(d) Except as provided in Article 2.93 (commencing with Section 14091.3), hospitals that participate in the Selective Provider Contracting Program pursuant to Article 2.6 (commencing with Section 14081) and designated public hospitals under Section 14166.1, except Los Angeles County Martin Luther King, Jr./Charles R. Drew Medical Center and Tuolumne General Hospital, shall be exempt from the limitations required by this section.

(e) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the director may implement and administer this section by means of provider bulletins, or other similar instructions, without taking regulatory action.

(f) The director shall promptly seek all necessary federal approvals in order to implement this section, including necessary amendments to the state plan.

(g) Notwithstanding any other provision of this section, small and rural hospitals, as defined in Section 124840 of the Health and Safety Code, shall be exempt from the payment reductions set forth in this section for dates of service on and after November 1, 2008.

(h) For hospitals that are subject to clauses (i) and (ii) of subparagraph (B) of paragraph (2) of subdivision (b) and that choose to contract pursuant to Article 2.6 (commencing with Section 14081), the California Medical Assistance Commission shall negotiate rates taking into account factors specified in Section 14083.

(i) (1) In January 2010 and in January 2011, the department and the California Medical Assistance Commission shall submit a written report to the policy and fiscal committees of the Legislature on the implementation and impact of the changes made by this section, including, but not limited to, the impact of those changes on the number of hospitals that are contract and noncontract, patient access, and cost savings to the state.

(2) On or before January 1, 2012, the department, in consultation with the California Medical Assistance Commission, shall report on the implementation of this section. The report shall include, but not be limited to, information and analyses addressing patient access, capacity and needs within the health facility planning area, reimbursement of hospital costs, changes in the number of open

1 and closed health facility planning areas, the impact of this section
2 on the extent of hospital contracting, and fiscal impact on the state.

3 (j) This section shall remain in effect only until January 1, 2013,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2013, deletes or extends that date.

6 SEC. 2. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety within
8 the meaning of Article IV of the Constitution and shall go into
9 immediate effect. The facts constituting the necessity are:

10 In order to make the necessary statutory changes to address the
11 current fiscal crisis at the earliest possible time, it is necessary that
12 this act take effect immediately.